



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2006 REGULAR SESSION

HOUSE BILL NO. 67

TUESDAY, FEBRUARY 21, 2006

The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

AN ACT relating to substances in the body.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 SECTION 1. A NEW SECTION OF KRS CHAPTER 72 IS CREATED TO
2 READ AS FOLLOWS:

3 *The Division of Kentucky State Medical Examiners Office and its laboratory services*
4 *shall prepare an annual report to the secretary of the Justice Cabinet which includes*
5 *the number of drug-related deaths, the counties in which those deaths occurred, and*
6 *the major categories or generic names of the drugs involved.*

7 Section 2. KRS 189A.105 is amended to read as follows:

8 (1) A person's refusal to submit to tests under KRS 189A.103 shall result in revocation
9 of his driving privilege as provided in this chapter.

10 (2) (a) At the time a breath, blood, or urine test is requested, the person shall be
11 informed:

12 1. That, if the person refuses to submit to such tests, the fact of this refusal
13 may be used against him in court as evidence of violating KRS
14 189A.010 and will result in revocation of his driver's license, and if the
15 person refuses to submit to the tests and is subsequently convicted of
16 violating KRS 189A.010(1) then he will be subject to a mandatory
17 minimum jail sentence which is twice as long as the mandatory
18 minimum jail sentence imposed if he submits to the tests, and that if the
19 person refuses to submit to the tests he will be unable to obtain a
20 hardship license; and

21 2. That, if a test is taken, the results of the test may be used against him in
22 court as evidence of violating KRS 189A.010(1), and that if the results
23 of the test are 0.18 or above and the person is subsequently convicted of
24 violating KRS 189A.010(1), then he will be subject to a sentence that is
25 twice as long as the mandatory minimum jail sentence imposed if the

1 results are less than 0.18; and

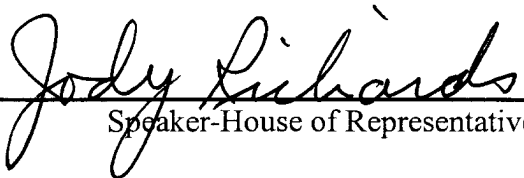
2 3. That if the person first submits to the requested alcohol and substance
3 tests, the person has the right to have a test or tests of his blood
4 performed by a person of his choosing described in KRS 189A.103
5 within a reasonable time of his arrest at the expense of the person
6 arrested.

7 (b) Nothing in this subsection shall be construed to prohibit a judge of a court of
8 competent jurisdiction from issuing a search warrant or other court order
9 requiring a blood or urine test, or a combination thereof, of a defendant
10 charged with a violation of KRS 189A.010, or other statutory violation arising
11 from the incident, when a person is killed or suffers physical injury, as defined
12 in KRS 500.080, as a result of the incident in which the defendant has been
13 charged. However, if the incident involves a motor vehicle accident in which
14 there was a fatality, the investigating peace officer shall seek such a search
15 warrant for blood, breath, or urine testing unless the testing has already
16 been done by consent. If testing done pursuant to a warrant reveals the
17 presence of alcohol or any other substance that impaired the driving ability
18 of a person who is charged with and convicted of an offense arising from
19 the accident, the sentencing court shall require, in addition to any other
20 sentencing provision, that the defendant make restitution to the state for the
21 cost of the testing.


22 (3) During the period immediately preceding the administration of any test, the person
23 shall be afforded an opportunity of at least ten (10) minutes but not more than
24 fifteen (15) minutes to attempt to contact and communicate with an attorney and
25 shall be informed of this right. Inability to communicate with an attorney during this
26 period shall not be deemed to relieve the person of his obligation to submit to the
27 tests and the penalties specified by KRS 189A.010 and 189A.107 shall remain

1 applicable to the person upon refusal. Nothing in this section shall be deemed to
2 create a right to have an attorney present during the administration of the tests, but
3 the person's attorney may be present if the attorney can physically appear at the
4 location where the test is to be administered within the time period established in
5 this section.

6 (4) Immediately following the administration of the final test requested by the officer,
7 the person shall again be informed of his right to have a test or tests of his blood
8 performed by a person of his choosing described in KRS 189A.103 within a
9 reasonable time of his arrest at the expense of the person arrested. He shall then be
10 asked "Do you want such a test?" The officer shall make reasonable efforts to
11 provide transportation to the tests.



Speaker-House of Representatives



President of the Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 